# Covernment of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 305 \* CASE NO. 79-14/79-6F January 10, 1980

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on November 19 and 26, 1979. At these hearing sessions, the Zoning Commission considered an application from the Hillandale Development Corporation for final approval of a Planned Unit Development (PUD), under Article 75 of the District of Columbia Zoning Regulations.

## FINDINGS OF FACT

- 1. The site is a portion of the Archbold Estate, is located at 3905 Reservoir Road, N.W., comprising approximately 42.01 acres, and includes lots 9-13, and 19-23 in the square north of Square 1312, lots 14-18, 801-803, 805, 807 and 809 in the square south of Square 1312, lots 1-12, 802, 804, 809 and 810 in Square 1313, and lots 803-805 in Square 1320.
- 2. The site is zoned R-1-B. The applicant does not request a change of zoning.
- 3. The R-1-B District normally permits single-family detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet. Under Article 75 of the Zoning Regulations, the maximum floor area ratio for a PUD in an R-1-B District is 0.4, and the maximum height is forty feet.
- 4. The applicant proposes to develop 268 residential units including 238 new townhouses and twenty-eight new single family detached residences, to be grouped in residential clusters, together with the existing mansion and gatehouse. The latter two structureswill be renovated for single family use.
- 5. The site is bounded on the east by 39th Street, N.W., on the south by Reservoir Road, N.W., on the west by Glover-Archbold Park and the site of the French Chancery, and on the north by Whitehaven Parkway. The site is currently occupied by a mansion, a gatehouse, and several out-buildings. It is largely vacant and undeveloped and is partly wooded.

NOTE: This order is amended by Z.C. Order No. 412 and 481.

- 6. Approximately seventy percent of the site is wooded. The lower portion of the site includes a meadow with a variety of fruit trees. The site is gently rolling terrain which gains elevation gradually, moving north from Reservoir Road toward Whitehaven Park. The low elevation of the site occurs at the southeast corner of the site near Reservoir Road and 39th Street. The high point of the site occurs in the north central portion of the site where the mansion is located and at the northeast portion of the site near Whitehaven Park. The major portion of the property is drained by two natural swales, one beginning near the center of the property at the horth boundary and draining to the southeast into the city storm sewer system at 39th Street and Reservoir Road. A smaller drainage area in the northwest sector of the site drains by natural means toward Glover-Archbold Park.
- The subject site is located north of the Georgetown University Medical Center and the 100 acre Georgetown University Campus. To the immediate east is the Burleith neighborhood which is comprised largely of well-maintained row and semi-detached single family dwellings. Along 39th Street, across from the lower portion of the site, is the ballfield for the Ellington High School for the Arts. To the north of the subject site is the Whitehaven Park, a reservation of the U.S. Park Service. North of Whitehaven Park is the Glover Park neighborhood which consists of townhouses and garden apartments. To the west of the property is the site of the proposed French Chancery, which was granted PUD approval by the Commission by Order No. 264 in Case No. 78-20/76-28F dated February 8, 1979, and the Glover-Archbold Park, another reservation of the U.S. Park Service. To the west of the Park are the residential neighborhoods of Foxhall Village, which consist of townhouses and detached homes, and Senate Heights, a neighborhood of detached homes. The predominant uses in the immediate area of the site are residential, institutional, and recreational. A commercial shopping area along Wisconsin Avenue is six blocks to the east of the site.
- 8. The applicant proposes to develop the property under a multiple building covenant as provided in Section 106 of the Building Code of the District of Columbia. Individual assessment and taxation lots will be sold to purchasers who will acquire a fee simple interest in a lot which will include a building with parking space below and a rear yard. The balance of the property will be owned in common by the residents of the development and will be managed by a homeowners' association.

- 9. The project homeowner's association will be responsible for maintenance of common areas, ponds, pool, tennis courts, roads and sidewalks, parking areas, mews-decks, as well as site lighting, landscaping of common areas, forest management of tree preservation areas, repairs of common area fences, retaining walls, the guardhouse, and the maintenance building. The association will also be responsible for trash collection, snow removal, and grass cutting of common lawn areas.
- 10. The applicant has applied to the Executive Branch of the District of Columbia Government for administrative review of the site plan under the Mayor's Large Tract Development Review Process (Mayor's Order No. 78-58). In addition, the applicant has applied to the D.C. Surveyor for the closing and transfer to the applicant of certain dedicated but unbuilt streets and alleys along the eastern boundary of the property. Following removal of these streets and alleys from the Highway Plan, the applicant will apply for a re-subdivision of the property to a single lot of record in order to remove the thirty-eight platted lots which bear no relationship to the site plan involved in this application.
- 11. The applicant proposes to develop 268 residential units, including townhouses, semi-detached and detached houses. The existing mansion and gatehouse will be retained for residential use. The proposed townhouses, semi-detached houses and detached houses will be grouped around the site in seven individual clusters. At the north end of the site adjacent to Whitehaven Parkway, there are twenty-eight lots which will be sold for the development of twenty-eight detached houses. Every residential unit in the project will be for single family use. There will be a private yard for each unit. Each dwelling unit will have its own front door facing either onto a residential lane or a landscaped pedestrian news-deck. Each unit will have a parking garage accessible either directly from the project's roadway system or via a travel lane under a landscaped news-deck.
- 12. The residential units will range in height from thirty to forty feet. Except for the twenty-eight detached homes, the cluster units will range in width from 19 feet 6 inches to twenty-eight feet and in length from thirty-seven to forty-five feet and in size from 2,580 to 4,547 gross square feet, including garages and breezeways. The applicant's plans include thirteen types of units with varying floor plans. Each type includes optional arrangements. The number of bedrooms ranges from two to four. Each unit has at least one, and most have two, parking spaces in a garage within or next to the unit.

The units will be constructed of brick, stucco or wood. The roofs will be surfaced with slate, asphalt shingle, standing seam metal, clay tile, or wood shake.

- 13. The floor area ratio is 0.4. The gross floor area of the entire project is 731,982. A total of 135,408 square feet of gross floor area have been assigned to the twenty-eight detached houses to be custom-built. A total of 18,100 gross square feet have been assigned to the existing mansion and gatehouse, and 2,271 gross square feet have been assigned to ancillary structures. The maximum lot occupancy for the entire project is twenty-one percent.
- 14. A maximum of 770 and a minimum of 740 parking spaces will be provided. Garage parking for residents will be provided at the rate of approximately two cars per unit. Visitor parking in surface spaces adjacent to the clusters will be provided at a rate of approximately 0.5 spaces per unit. A third category of parking, overflow visitor parking, will be provided along the main roadway at the rate of approximately 0.37 spaces per unit. This parking will be available in the case of several parties or other simultaneous major events requiring additional parking. The Commission finds that the applicant's parking proposal is reasonable provided that a minimum of one parking space per dwelling unit is provided.
- 15. The vehicular circulation system of the project consists of a single main roadway which enters the project from 39th Street at a point that is located 109 feet south of S Street as measured from centerline to centerline. An emergency-only entrance is provided in the northeast section of the site, adjacent to the end of 39th Street. The seven clusters are connected to the main roadway via connector drives which provide access to visitor parking for each cluster and individual resident parking for each unit. The main roadway enters the site in its southeastern portion and moves to the northwest where it connects in a T-shaped fashion with a northern roadway which provides access to the twenty-eight detached single family lots. It ends in a cul-desac at two residential clusters, one in the far northwest corner of the site adjacent to Glover-Archbold Park and another in the upper eastern portion of the site adjacent to 39th Street where the emergency-only entrance is provided.
- 16. The open space system of the project consists of several tree preservation areas and zones, a landscaped meadow, landscaped mews-decks, ponds, a swimming pool and tennis courts.

- 17. The applicant proposes to provide seven tree preservation areas and zones on the site plan. Tree preservation zones will be those areas on the site for which the applicant will make every reasonable effort to preserve natural vegetation and to conserve the species which grow wholly within the designated boundary lines. Prior to construction, tree preservation zones and areas will be fenced and clearly marked to ensure that construction activities do not enter the restricted areas. Because grading and other construction work will be carried out up to the edges of the tree preservation area, individual trees on the boundary may be adversely affected. However, every reasonable effort including prefeeding, tree wells and retaining walls will be made by the applicant to minimize the number of trees and plants affected by site work. In the tree preservation area north of the main entrance and south of the emergency entrance along 39th Street, the applicant will construct permanent fences and will take action so that if a tree is on a fence line, the fence will be constructed around the tree.
- 18. Following construction, the applicant proposes that tree preservation zones will fall into two types of ownership, private and common. Tree preservation areas within private lots will be protected by deed restrictions. Those held in common will be protected by provisions in the by-laws of the project homeowners' association. As to all tree preservation zones and areas, through provisions in the homwowners' by-laws and individual deeds, owners will be barred from removing trees over two inches in breast height caliper except for dead or diseased trees or trees which are a threat to life or property. However, owners will be barred from removing any tree along the 39th Street Special Tree Preservation zone north of the main entrance and south of the emregency entrance. Disturbance of the understory will be restricted solely to activities consistent with sound forest management practices. No private owner, or the homwowners' association, will be allowed to remove vegetation for landscaping purposes, fire wood or other reasons not related to long-term maintenance and safety. No ancillary buildings, decks, patios or any storage space will be allowed in tree preservation areas, except for patios and decks to the rear of the twenty-eight detached homes along Whitehaven Parkway. mission finds that the applicant's tree preservation proposal is adequate with the exception of concern for smaller and low growing vegetation, and an enforcement mechanism to insure the maintenance of the protected vegetation.

- 19. The project will be developed in three stages over a period of approximately three years. The first stage will include the Georgetown and Chancery Cluster and associated roadway improvements, including the main entrance. During the entire Hillandale sales period, the existing gatehouse will be operated as a project management and sales office. The Commission finds no objections to the temporary use of the existing gatehouse as a sales office.
- 20. The open space system includes the tree preservation zones and areas of approximately 8.3 acres or 19.7% of the site. Landscaped open areas including lawns and yards comprise approximately 17.9 acres or 42.6% of the site. Impervious open spaces including landscaped mews-decks, the tennis courts and pools comprise 3.2 acres or 7.6% of the site and ponds cover .65 acres or 1.5% of the site. Total open space is approximately seventy-one percent of the site.
- 21. Plan setbacks include the following: Sixty feet between Glover-Archbold Park and the Parkside Cluster, within which is a thirty foot tree preservation area and thirty foot rear yards; thirty feet between Whitehaven Park and the twenty-eight custom built detached home lots, including a tree preservation zone in these private lots which is twenty-seven feet in width; forty feet between the 39th Street property boundary and homes along 39th Street north of the main entrance and south of the emergency entrance, including a twenty-five foot tree preservation zone, fifteen feet of which is to be held in common by the homeowners' association and ten feet of which is in private rear yards; and a setback ranging from twenty-eight feet to sixty feet between 39th Street and the Georgetown Cluster, south of the main entrance as described in applicant's Exhibit 3A (December 6, 1979). By deed restrictions, the Georgetown Cluster is set back a distance of fifty feet from the west property line and the Chancery Cluster is set back a distance of seventy-five feet from the west property line. The Commission finds that the applicant's setback proposal is adequate and satifies various concerns related to the matter of buffer areas.
- 22. The site grading plan has been developed to provide for stable slopes capable of accepting natural vegetation, safe conveyance of storm water around and away from the structures, and to provide an aesthetically pleasing transition from existing natural contours at the perimeter of preservation areas or at the property line to the physical improvements.

- 23. All storm water generated from improved areas of the project will be routed through four permanent stormwater management retention ponds which have been designed to reduce peak stormwater run-off to rates prevailing during a fifteen year storm under natural conditions which existed prior to development. Facilities will be provided for control of sediment generated by stormwater run-off in exposed areas during construction through the use of detention ponds, sediment traps, stormwater filtering devices and straw bale dikes.
- 24. No stormwater run-off from improved portions of the site will discharge directly into a park without prior routing and control through the stormwater management ponds, with the exception of the rear yard areas of the Parkside Cluster which was redesigned at the recommendation of the National Park Service of the U.S. Department of Interior to allow for a tree preservation area between the Parkside Cluster and the Glover-Archbold Park. Sewer and water service will utilize and connect with existing public facilities in 39th Street.
- 25. The design of the entrance plan will control and direct traffic entering and leaving the project to minimize impact on nearby residential streets. Modification of the existing flow of traffic along 39th Street will be provided by restricting all traffic to one-way northbound immediately north of the main entrance. In addition, traffic exiting the site will be required to proceed south along 39th Street to the intersection of 39th Street and Reservoir Road. A traffic signal will be provided at the intersection of 39th Street and Reservoir Road at the expense of the applicant. In addition, appropriate striping and positioning of stop signs will be provided on Reservoir Road to ensure traffic control at the emergency entrances of The Georgetown University Hospital located opposite the project. A conduit will be provided for the possible future construction of an addition traffic signal at the hospital entrance, if deemed necessary by the D.C. Department of Transportation.
- 26. The northern boundary of the property adjacent to Whitehaven Park will be fenced with a natural wood fence of a stockade variety approximately eight feet in height. This natural wood fence begins at the north end of the emergency gate at the top of 39th Street and extends along the northern perimeter of the site adjacent to Whitehaven Park to a point approximately ninety feet east of the northwest corner of the property. At this point, there will be a pedestrian gate. From the pedestrian gate around to the western boundary of the property and extending to the south end of the Parkside Cluster will be a wrought iron type fence approximately 6 feet 6 inches in height. From this point moving south adjacent to the Glover-Archbold Park and the French Chancery there will be a black vinyl-clad chain link fence, approximately six feet in height, running to the

north end of the Chancery Cluster. At this point, the wrought iron type fence begins again and extends down the western boundary of the property, adjacent to the French Chancery to Reservoir Road. The existing stucco wall along Reservoir Road southern boundary of the property to 39th Street will be preserved. There will be a pedestrian gate at the opening where the present driveway is located. The eastern boundary of the property along 39th Street between Reservoir Road and the emergency entrance will be fenced with wrought iron type fencing, except for the main entrance walls and gates and the emergency entrance. Private yards will be fenced.

- 27. The applicant's landscaping and lighting plan provides for the introduction of flowering trees, shrubs, and evergreen and shade varieties positioned to beautify the site and to act as natural erosion controls and visual barriers. Landscaped courtyards will be created within major clusters and will be paved with materials to complement the architecture of the units. Planter boxes and benches will also be provided. Lighting within the project will consist of three principal types: roadway lighting, parking area lighting and architectural/courtyard lighting, Information signs, bicycle racks, benches, trash receptacles will also be provided. Recreational facilities include a swimming pool, two tennis courts and walking and jogging trails through portions of tree preservation areas. Walking and jogging trails will also pass through the large tree preservation area south and west of the mansion with access to the main roadway north of the Chancery Cluster.
- 28. In granting preliminary approval to the application by Order No. 292 dated August 27, 1979, the Zoning Commission established guidelines, conditions, and standards applicable to the final application. As to those guidelines, conditions and standards, the Commission finds the following:
  - a. The applicant filed an application for final approval of a PUD, under the existing zoning of R-1-B.
  - b. The overall density of the planned unit development does not exceed a floor area ratio of 0.4. The maximum number of dwelling units does not exceed 268.
  - c. The maximum height of any building does not exceed forty feet.

- d. The overall lot occupancy for the planned unit development does not exceed twenty-one percent. The percentages of land devoted to undisturbed areas, open space and land-scaped areas are in accordance with testimony and documentation received during public hearings on this application.
- e. Use of the property is limited to residential dwellings consisting of approximately 163 row, sixty-eight semi-detached and thirty-seven detached single family units and includes other buildings and structures accessory and incidental to the main use of the property, including recreational and storage facilities.
- f. A minimum of one off-street parking space is provided for each dwelling unit, with a maximum of 770 off-street parking spaces for the total project. Vehicular access is provided by a single entrance on 39th Street. A separate emergency entrance is provided north of the main entrance on 39th Street. Such emergency entrance is designed in accordance with standards appropriate to the D.C. Fire Department and D.C. Department of Transportation.
- g. The final design of the project is based on the plans submitted as part of the first stage application, and the revisions thereto, including the revisions to the, "Parkside Cluster" marked as Exhibit No. 111 of the record in the preliminary filing.
- h. The Stage II application includes architectural and landscape plans for individual clusters and units. An overall landscape plan, depicting undisturbed areas, trees to remain, and buffer strips has been submitted.
- i. The Stage II application includes site plans depicting the permanent location, and erosion control measures for the "Parkside Cluster".

- j. The Stage II application reflects the concerns of the National Park Service regarding site plans, stormwater run-off, sedimentation and erosion control features.
- k. The Stage II application depicts traffic control measures to be employed, including proposed modifications to public streets, signalization and other features, in accordance with the recommendations of the D.C. Department of Transportation. The applicant is providing the wiring and equipment for a traffic signal to be located at the Georgetown University Medical Center emergency entrance on Reservoir Road, to enable a traffic light to be put into operation if and when deemed necessary by the Department of Transportation. The applicant is bearing the cost of modifications to public streets, signalization and other such features.
- 1. The Stage II application does include sample covenant language including proposed architectural and site plan reviews and building restrictions for the fee simple lots adjacent to Whitehaven Parkway.
- n. No site grading or other change in the existing character of the property, including removal of existing trees or vegetation, will take place prior to approval of the detailed site and landscaping plans by the Zoning Commission in Stage II.
- 29. At the public hearing, the applicant amended its Second-Stage application in two respects: the main entrance was shifted five feet to the south so that it was located 109 feet from S Street, centerline to centerline, and the fifteen foot tree preservation area along 39th Street from the main entrance north to the emergency entrance was increased to twenty-five feet, with the westernmost ten feet to be within private lots and the easternmost fifteen feet to be held in common. changes were made pursuant to written agreement dated November 19, 1979, entered into by the Burleith Citizens Association and the applicant, which has been entered into the record. The applicant also sought permission from the Commission to have construction flexibility for various clusters in the project pending economic and marketing trends. The Commission finds that the applicant's request for construction flexibility is not unreasonable within certain limits and requested the applicant at the public hearing to submit specific language identifying the limitations of its request for construction flexibility.

- 30. The Office of Planning and Development, by a report dated November 15, 1979 and by testimony at the hearing on the Second-Stage application, confirmed that the applicant has complied with all the conditions set forth in Zoning Commission Order No. 292 which granted approval for the First Stage P.U.D. The Office of Planning and Development recommended that the application be approved, subject to certain guidelines, conditions and standards enumerated in the Office of Planning and Development Summary/Abstract Report.
- The D.C. Department of Transportation, by memorandum to the 31. Office of Planning and Development dated November 23, 1979, reported that the Department had coordinated with the applicant on the second-stage design of the traffic measures which included proposed modifications to public streets, signalization and other features as directed by Zoning Commission Order No. 292. Particularly, the Department of Transportation report noted that the dimensions for the proposed entrance on 39th Street were as recommended by the Department; that the applicant will construct a sidewalk along the west side of 39th Street and along the north side of Reservoir Road to the entrance at the existing gatehouse; that the sign at the merge of the outbound entrance roadway and 39th Street will read "No U Turn" instead of "No Left Turn"; that the applicant will bear the costs of the modifications to the public streets, including signalization and other features related to traffic control and operation; that the applicant will provide the wiring and equipment for the traffic control signal at 39th Street and Reservoir This installation will include the wiring and equipment for a traffic signal to be located at the Georgetown University Medical Center emergency entrance on Reservoir Road to enable a traffic light to be put into operation if deemed necessary by the Department of Transportation.
- 32. The Department of Environmental Services, in a memorandum to the Office of Planning and Development dated November 6, 1979 indicated that it had no objection to approval of the Second-Stage application of the project and indicated that the stormwater management and erosion control plans had been coordinated with the Department of Environmental Services.
- 33. The D.C. Fire Department, by memorandum dated October 23, 1979 to the Office of Planning and Development, indicated that the Department had reviewed the Second-Stage application and concluded that the proposed development satisfied those areas of concern covered in the Fire Prevention Code and that the development will have little or no impact on the operations of the Department. The Fire Chief noted that close coordination with the Fire Marshall must be maintained to ensure that all of the features for fire-safe structures are provided.

- 34. The Superintendent of Schools, by memorandum dated October 17, 1979 to the Office of Planning and Development, stated that a review of the Second-Stage Application revealed no significant factors to alter the original finding that the development would have no adverse affect on the public schools.
- 35. The D.C. Office of Business and Economic Development by memorandum to the Office of Planning and Development dated November 8, 1979, supported the development and indicated that the presence "in the area is likely to generate significant long-term economic benefits, including increased patronage and tax revenues from businesses located along the Wisconsin Avenue corridor and in the Georgetown area generally."
- 36. Advisory Neighborhood Commission 3B, within which the property is located, by testimony presented at the public hearing opposed the application on the following grounds:
  - a. The project does not include housing for low and moderate income families.
  - b. The City lacks a comprehensive plan.
  - c. There is a need to prevent obstruction of the emergency exit of Georgetown University Hospital.
  - d. There is a need for inspections to enforce the site plan concerning tree preservation and grading.
  - e. The project is isolated from the existing community and access to the project should not be limited for pedestrians.
  - f. In light of the current crisis in low and moderate income housing in the District, the construction of an upper income project is not in keeping with a reasonable solution to the problem.
  - g. The buffer along Whitehaven Park and the entire property should be greater in every instance than forty-five feet.
  - h. The Commission failed to give serious consideration and great weight to the issues raised by the ANC.
  - i. The Department of Transportation has failed to provide, as promised at the hearing of July 28,

any documentation showing the adequacy of a sign at the entrance to the Georgetown Hospital rather than a stop light.

j. No written agreement or evidence of an intended agreement between the developer and the National Park Service concerning the preservation of the land in the southwest corner of the property as promised the ANC at the hearing of July 28 was ever produced.

At the public hearing, the ANC noted that the applicant had provided evidence of an intended agreement between itself and the National Park Service of the U.S. Department of Interior concerning preservation of the tree preservation area adjacent to Glover-Archbold Park.

- 37. The Burleith Citizens Association, by its written testimony and the oral statement of its Past-President, Mr. Robert McFadden, at the public hearing, supported the application for a Planned Unit Development. The Association indicated that an agreement had been entered into with the applicant whereby the main entrance was to be moved five feet to the south and an additional ten feet of tree preservation area was to be added to the eastern perimeter along 39th Street, north of the main entrance and south of the emergency entrance. The Association requested the Zoning Commission to assist in the establishment of an effective program for monitoring and enforcing the applicant's commitment to tree preservation and to include such a requirement in any final order. The tree preservation monitoring program, the Association indicated, must include a commitment of such resources as are necessary to ensure that (a) the tree preservation areas as represented by applicant are accurately translated to the construction site itself; (b) the protective measures described by the applicant in its application (including, but not limited to, the erection of snow fences around all the tree preservation areas) are implemented and thereafter maintained; and (c) any violation(s) of the tree preservation commitments are discovered and reported.
- 38. The Committee of 100 on the Federal City, by testimony of Mr. James G. Deane, Trustee and Chairman of the Subcommittee on Park Protection, testified concerning the adequacy of stormwater management and erosion control measures to ensure that there would be no adverse impact on the Whitehaven and Glover-Archbold Parks. Mr. Deane further testified concerning the adequacy of the site plan in terms of visibility of residential units from the park, and the potential adverse impact on the adjacent parks which the development as proposed might cause.

- 39. The Commission has given serious consideration and "great weight" to issues raised by the Advisory Neighborhood Commission. As to the ANC concern about obstructing the hospital entrance, the D.C. Department of Transportation has agreed to the erection of a sign to prevent blockage of the driveway and the applicant has agreed to pay for the cost of wiring that intersection and erecting a traffic signal if one should prove necessary in the future to prevent blocking of the entrance. As to supervision and enforcement of the site plan concerning tree preservation and grading, the Commission agrees with the ANC and with the Burleith Citizens Association that an effective monitoring program is necessary and so provides in the decision that follows. As to the other ANC concerns, the Commission finds that the perimeter setbacks are sufficient to protect the adjacent parks and that adequate provision is made for access to pedestrians. As to the Comprehensive Plan issue, the Commission finds that the lack of the Comprehensive Plan as envisioned by the Home Rule Act is not a bar to consideration and disposition of the case and points out that, in fact, the D.C. Court of Appeals has ruled that at present, the Zoning Regulations and Maps are the Comprehensive Plan for the City pending preparation and adoption of a Comprehensive Plan in accordance with the requirement of the Home Rule Act. The Commission further finds that there is no legal or zoning requirement that low and moderate income housing be located on the site and does not agree with the ANC that an upper income project would not be in keeping with a solution to the overall problems of adequacy of housing for low and moderate income families and persons in the City.
- 40. As to the concerns raised by the Committee of 100 on the Federal City, the Zoning Commission finds that a private landowner has the right to use his property in a manner consistent with the Zoning Regulations. In that regard, the R-1-B District requires a minimum rear yard of twenty-five feet, and further contains no specifications regarding what grading or activities can occur in that rear yard. The Commission finds that the applicant's proposal to provide at least thirty feet and to require preservation of trees in those areas to be a substantial public benefit to be acheived through the PUD process which would not occur if the site were developed as a matter-of-right. As to the enforceability of the conditions of this PUD, the Commission finds that the conditions will run with the land by way of a covenant recorded in the land records of the District of Columbia. Such conditions cannot be changed by the applicant but are reserved to the jurisdiction of the Zoning Commission, in perpetuity. As to the adequacy of storm water management and erosion control, in Finding of Fact No. 23, the Commission determined that the proposed development reduce peak storm water runoff to the rates existing under present undeveloped conditions.

The same finding also addressed sediment control measures. As to the visibility and other potential adverse impacts, the Commission finds that the proposed development represents a reasonable approach to development of the site. The Commission notes that the Parkside Cluster is substantially further removed from the park boundary than was originally proposed. The Commission will also impose a requirement on the height of buildings adjacent to Whitehaven Parkway to further reduce the visual impact of such houses. The Commission finds that, while the development on this site will be visible from the adjoining parks, the development as approved herein will not be obtrusive and will not have any significant meaningful adverse impact on the parks.

- 41. The proposed action was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that approval of the planned unit development subject to the guidelines, conditions and standards set forth in the proposed action of the Zoning Commission which was reviewed by the NCPC will not have a negative impact on the functions of the Federal Establishment or other Federal interests in the National Capital Region, provided that:
  - (1) The fencing required to be constructed along the Whitehaven Parkway boundary pursuant to condition no. 23 is chain link, with black vinyl-coating, and not stockade as shown on Drawings 12B and 12C of Exhibit 46;
  - (2) Condition no. 15 is amended by changing the comma after the words "tree preservation zones and areas" in the second sentence to a period and deleting the remainder thereof; and
  - (3) Condition no. 18c is amended by changing the words "10 feet" to "27 feet" and by adding the following new sentence: "In addition, the scenic easement extending 27 feet from the site boundary shall be extended along the full length of the northern and western boundaries of the site, provided that the applicant may grade that area, construct the retention pond and houses and add new plantings and land-scaping, as shown on the approved plans, prior to the dedication of such easement."
- 42. As to the concerns of the National Capital Planning Commission for the protection of the Federal interest in Whitehaven Parkway, the Zoning Commission finds that the changes recommended by NCPC are appropriate to lessen the impact of the proposed development on the park. In Finding of Fact No. 40, the Commission has already

addressed the potential impact of the development on Federal parkland. The changes reported by NCPC would be consistent with the thrust of actions already taken by the Commission. The Commission notes that imposition of a twenty-seven foot scenic easement on the northwest corner of the site will result in the boundary of the easement area running in part through a sediment control and retention pond. The Commission finds that management of the easement area would be facilitated by including the entire retention pond area in the easement area. The Commission finds that such inclusion will not adversely effect the proposed development, since the area is to be owned in common by the homeowner's association and is not to be developed.

### CONCLUSIONS OF LAW

- 1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use of the site is essential to ensure compatability with the neighborhood.
- 2. This Planned Unit Development carries out the purposes of Article 75 to encourage the development of well-planned residential communities which will offer a variety of building types with more attractive and efficient overall planning and design, without sacrificing creative and imaginative planning.
- 3. Approval of the application is consistent with the intent and purposes of the Zoning Act and Zoning Regulations.
- 4. The proposed application can be approved with conditions that ensure that the development will not have an adverse effect on the surrounding neighborhoods, parks, and institutions.
- 5. Approval of the application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
- 6. The applicant has met the requirements of Article 75 concerning submission of Second-Stage P.U.D. applications.
- 7. The Zoning Commission has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled.

### DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders approval of the Final and Second-Stage PUD application for Lots 9-13, and 19-23 in the square north of Square 1312, Lots 14-18,801-803,805,807, and 809 in the square south of Square 1312, Lots 1-12,802,804,809, and 810 in Square 1313, and Lots 803-805 in Square 1320, located at 3905 Reservoir Road, N.W., and subject to the following guidelines, conditions and standards:

- 1. The planned unit development shall be developed under the existing R-1-B zone district, in accordance with plans dated November 19 and 20, and December 6, 1979, prepared by Sasaki Associates, Inc., and Greenhorne and O'Mara Inc., marked as Exhibits No. 46 and 59 of the record, except as such plans may be modified to conform to the conditions listed below.
- 2. The maximum number of units shall be 268, including the existing mansion and gatehouse, of which no more than 163 shall be rowhouses, no more than 68 semi-detached houses, and no more than 37 detached houses except as provided in item 32 below.
- 3. All dwellings shall be single-family residences. The existing mansion may include club-type facilities for homeowners. The maintenance building may be used for management, maintenance and recreation services. Uses may also include other buildings and structures accessory and incidental to the main use of the property, including recreational and storage facilities.
- 4. Temporary use of the existing gatehouse as a sales and project management office for the Hillandale Corporation is permitted. This unit shall ultimately be used as a single family dwelling unit as shown on Drawing 3A of Exhibit 59.
- 5. The maximum gross floor area as defined by the Zoning Regulations, for the overall Planned Unit Development shall not exceed 731,980 square feet. The floor area ratio for the Planned Unit Development shall not exceed 0.40.
- 6. The maximum gross floor area for each of the 28 single family detached "custom homes" shall not exceed 4,836 square feet. The design and construction of these units shall be controlled by the applicant in accordance with the features of the Architectural Guidelines for Twenty-eight Detached House Lots included on pages A-45 through A-51 in the document entitled Hillandale PUD marked as Exhibit No. 2-A of the record.
- 7. The overall lot occupancy for the Planned Unit Development shall not exceed twenty-one per cent.
- 8. The maximum height of buildings shall not exceed 40 feet, measured from the grade in front of the entrance door for those units at grade and from the deck in front of the entrance door

for dwellings on a mews-deck, except that as to lots 4 through 27 as shown on Drawings 3B and 3C of Exhibit No. 46 along the Whitehaven Park property line, no building shall exceed:

- a. 30 feet in height as measured from the finished grade at the centerpoint of the rear wall of the building to the ceiling of the uppermost story, provided that a building may exceed thirty feet in height if the building is set back from the rear lot line one foot for each foot in height, to a maximum height of 40 feet.
- b. Forty feet in height, as measured from the grade in front of the entrance door.
- 9. The maximum number of parking spaces shall be 740 spaces. The minimum number of parking spaces shall be 268 spaces.
- 10. The following setbacks from the exterior boundaries (property lines) of the site to the rear walls of buildings are required:
  - a. For lots numbered 4 through 27 that have rear lot lines along the northern perimeter (Whitehaven Parkway) of the site: 30 feet.
  - b. For those lots that have rear lot lines along the 39th Street property line from the Whitehaven Parkway to the emergency entrance: 30 feet.
  - c. For those lots that have rear lot lines which abut the common tree preservation area along the 39th Street property line from the emergency entrance to the main entrance: 40 feet.
  - d. For those lots that have rear lot lines which abut the common tree preservation area along the 39th Street property line from the main entrance to Reservoir Road: the setback ranges from 28 feet to 60 feet as shown on Drawing 3A of Exhibit 59.
  - e. For those lots which have rear lot lines which abut common areas along the French Chancery property line to the Georgetown Cluster, as per deed restrictions: 75 feet.
  - f. For those lots which have rear lot lines which abut common areas along French Chancery property line to the Chancery Cluster, as per deed restrictions: 50 feet.
  - g. For those lots which have rear lot lines which abut common tree preservation areas along the Glover-Archbold property

line to the Parkside Cluster: 60 feet.

- 11. The location of the clusters and individual units shall be as shown on Drawings 3A and 3C of Exhibit 59, and Drawing 3B of Exhibit 46, provided that the overall length or width of a cluster may be increased in an outward direction by not more than 10 feet or reduced by not more than 15 feet, except where such a change would encroach on a tree preservation zone or area, or a plan setback, in which case the increase or reduction shall be allowed only to the restricted area boundary.
- 12. The locations of the pool, tennis courts and maintenance building shall be as shown on Drawing 3A of Exhibit 59, and Drawing 3B of Exhibit 46. The location of these facilities may be moved 10 feet in any direction, except where such a change would encroach on a tree preservation zone or area, or a plan setback in which case the adjustment in location shall be allowed only to the restricted area boundary. The configuration of the pool shape may change.
- 13. The locations of the tree preservation zones and areas shall be as shown on Drawings 3A and 3C of Exhibit 59 and Drawing 3B of Exhibit 46. Within the boundary of a tree preservation area or zone, no tree over one inch in breast height caliper shall be removed (no trees of any size in the 39th Street tree preservation zone), except trees which are dead or diseased or which are a threat to persons or property. This restriction shall apply to the applicant during construction and, after sale to individual homeowners and transfer of common areas to the homeowners' association, to individual lot owners as to tree preservation areas in private lots and the homeowners' association as to tree preservation zones and areas held in common.
- 14. The applicant and the individual lot owners and/or homeowners' association may plant new trees and shrubs in tree preservation areas and may undertake forest management activities
  in such areas, including understory control and light grading and
  ground cover planting to control soil erosion. The understory in
  tree preservation areas, in individual private lots and in commonly
  held areas, shall be maintained in a manner so as to preserve
  its functional viability.
- 15. During construction, the applicant shall undertake control measures, including the erection of snow fence barriers, at tree preservation zone and area boundaries to preclude construction activity or storage within such areas. Following construction, no ancillary buildings, decks or patios or any storage shall be allowed in tree preservation zones and areas.

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- 16. The applicant shall include the above restrictions relating to tree preservation zones and areas in all deeds of sale and in the by-laws of the homeowners' association.
- 17. With regard to enforcement of the restrictions of the tree preservation zones and areas during construction, the applicant shall provide certification by a licensed engineer and landscape architect of compliance with items 12, 13, 14 and 15 of this Order. Certification of compliance shall be accomplished once every 30 days until completion of construction of the Planned Unit Development. Copies of each certification shall be forwarded to the Zoning Administrator of the District of Columbia, the Assistant City Administrator for Planning and Development, the Director, D.C. Department of Environmental Services and the Regional Director of the National Capital Region of the National Park Service. The Zoning Administrator shall monitor the compliance of the conditions of this Order regarding restrictions of the tree preservation zones and areas in consultation with the Assistant City Administrator for Planning and Development, the Director, D.C. Department of Environmental Services, and the Regional Director of the National Capital Region of the National Park Service.
- 18. Scenic easements shall be dedicated to the Secretary of the Department of Interior for the following tree preservation zones and areas as shown in Exhibits 46 and 59:
  - a. Approximately five (5) acres located to the west and south of the existing mansion;
  - b. That area located between the western boundary line of the Planned Unit Development and the "Parkside Cluster" to be a minimum of 30' in width and approximately 325 feet in length;
  - c. That area located adjacent to Whitehaven Parkway to the rear of the "Custom Homes" to be a minimum of 27 feet in depth from the Whitehaven Parkway boundary. In addition, the scenic easement extending 27 feet from the site boundary shall be extended along the full length of the northern and western boundaries of the site and shall include the area between lots 2,3 and 4 around the rentention pond, as marked on sheet 3c of exhibit 59. The applicant may grade the extended easement area, construct the retention pond and houses and add new planting and landscaping, as shown on the approved plans prior to the dedication of such easement.
- 19. Lot size and location may vary, based on topography and grading from lots shown on Drawings 3A,3B and 3C of Exhibits 46 and 59. Each unit shall have either a private side yard or rear yard located

on its lot, with such yard having at least 15 feet in width or depth and minimum area of at least 300 square feet.

- 20. The applicant may construct porches, stairs, patios, decks, fences, storage areas, and retaining walls within rear and side yards provided no such construction violates the conditions contained in item 13 of this Order.
- The location of all roads, parking areas, retaining walls, sidewalks and other similar facilities, shall be as shown on Drawings 12A, 12B and 12C of Exhibit 46. The roadways shall be private. Roads, sidewalks, parking areas, cluster parking entrances, retaining walls, other similar facilities, and underlying utilities may be shifted by not more than 10 feet horizontally and 5 feet vertically from the locations shown on the applicant's exhibits, except where to do so would encroach on a tree preservation zone or area, or a setback, or where adjustments to drainage facilities are necessary to facilitate permitted grading adjustments described herein, in which case the adjustment in location of such facilities shall be allowed only to the restricted area boundary. The applicant may install a below-grade utility corridor between the Cresent and Upper 39th Street Clusters within a tree preservation zone or area provided that such utility corridor shall not exceed 25 feet in width.
- 22. The main entrance location and design shall be as shown on Drawings 13A, 13B and 13C of Exhibit 46. The centerline of the entrance shall be located at least 109 feet south of the centerline of "S" Street. The emergency entrance location and design shall be as shown on Drawings 12 and 13B of Exhibit 46. Pedestrian entrances shall be as shown on Drawing 13B of Exhibit 46.
- 23. Perimeter fences shall be constructed as shown on Drawings 12A, 12B, 12C and 14E of Exhibit 46, except that the fence along Whitehaven Parkway shall be a black vinyl clad chain link fence instead of a wood stockade fence.
- 24. The existing wall on the Reservoir Road property boundary shall be preserved.
- 25. The applicant shall erect and pay for a traffic signal at the 39th Street and Reservoir Road intersection. The applicant shall wire the Georgetown Hospital emergency entrance intersection on Reservoir Road for future signalization to be installed by the D.C. Department of Transportation if deemed necessary.
- 26. The applicant shall install a 6 foot wide sidewalk in the public right-of-way along the west side of 39th Street from the main entrance to Reservoir Road and along the north side of Reservoir Road from 39th Street to the pedestrian entrance on Reservoir Road, so long as to do so does not adversely impact the adjacent tree preservation area.
- 27. The applicant may change the names of clusters.

- 28. Grading shall be carried out at the dimensions shown on Drawings 4A, 4B and 4C of Exhibit 46. The applicant may vary grading 10 feet horizontally or five feet vertically, when necessary to preserve trees or to minimize cut and fill, except where to do so would encroach on a tree preservation zone or area in which case the variation shall be allowed only to the restricted area boundary.
- 29. Landscaping shall be carried out in accordance with Drawings 5A, 5B, 5C and 5D of Exhibit 46. Lighting of roadways, parking areas, sidewalks, tennis courts, and pool shall be similar as shown on Drawings 5A, 5B and 5C of Exhibit 46. Lighting is permitted for informational signs and the entrance sign. The location of landscape materials and lights may vary in location based on building and grading adjustments described herein but not more than ten feet in any direction. The types of plant materials shown may be substituted for each other, using plant material types listed in the Second-Stage Application, as amended. Additional quantities of planting materials may be added to the plan.
- 30. Four permanent and one temporary stormwater management ponds shall be developed as shown on Drawings 6A, 6B and 6C of Exhibit 46. Utilities shall be provided as shown on Drawings 6A, 6B and 6C of Exhibit 46. Erosion control measures shall be as shown on Drawings 8A, 8B and 8C of Exhibit 46. Access, during construction, shall be as shown on Drawing 12C of Exhibit 46. Stormwater management ponds, utilities, erosion control measures and construction access roads may be relocated by not more than 10 feet in any direction except where such a relocation would encroach upon a tree preservation zone or area or a plan setback, in which case the relocation shall be permitted only to the restricted area boundary.
- 31. The location of the Parkside Cluster shall be as shown on Drawing 3C of Exhibit 59. Erosion control measures for the Parkside Cluster shall be as shown on Drawing 8C of Exhibit 46, and the treatment of the Parkside stormwater structure shall be as shown on Exhibit 41A of the record.

#### 32. Architectural Treatment:

- a. The applicant may relocate any units within and between clusters; may vary the location of unit types as shown on Drawings 1, 3A and 3C of Exhibit 59 and Drawing 3B of Exhibit 46, and may substitute unit types for other unit types provided that:
  - the maximum number of all units (268) is not exceeded;

- ii. the number of units in any cluster is not increased by more than 10%
- iii. the height of roofs and the front facades of units in clusters are varied in dimension and setback.
- b. The applicant may change the dimensions (width, depth, elevations) of individual units, but not to exceed ten feet in any direction, provided that height limits, FAR and lot occupancy maximums set forth in this Order are not exceeded.
- c. The applicant may vary floor plans from those shown on Drawings 9-A through 9-O of Exhibit 46.
- d. Materials and architectural features may be varied among materials and architectural features shown on Drawings 9A through 90 of Exhibit 46 which include brick, wood or stucco for facades and wood shake, slate, tile and standing seam metal for roofs.
- e. The 28 detached houses along Whitehaven Park shall be developed using building restriction lines shown on Drawing 3B of Exhibit 46 and Drawing 3C of Exhibit 59, the height restrictions contained in condition No. 8 above and the sample architectural controls contained in the Architectural Guidelines for Twenty-Eight Detached House Lots included on Pages A-45 through A-51 in the document entitled Hillandale PUD marked as Exhibit No. 2A of the record.
- 33. The project may be developed in stages over a four-year period. The applicant may start construction on the first stage without the dedicated streets and alleys and paper streets having been closed and abandoned, provided that no building permit be issued or building construction commenced on the area occupied by those dedicated streets and alleys.
- 34. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and all successors in title to construct on and use the property only in accordance with the adopted order, or amendments thereof, of the Zoning Commission. If the dedicated streets and alleys are not closed by the City Council prior to recordation of the appropriate covenant, that covenant shall state that land occupied by those streets and alleys may not be developed until after the requested closing has taken effect and title has passed to the applicant.

35. Notwithstanding the provisions of Paragraph 7501.84 of the Zoning Regulations, the Chief of the Zoning Regulations Division shall not have the authority to approve any modifications in the final plans not specifically authorized in this order.

Vote of the Commission taken at the public hearing held on December 17, 1979: 3-0 (Walter B. Lewis, John G. Parsons and Theodore F. Mariani to approve, Ruby B. McZier and George M. White, not present not voting).

RUBY B. McZIER

Chair

Zoning Commission

STEVEN E. SHER Executive Director Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on January 10, 1980 by a vote of 5-0 (Theodore F. Mariani, John G. Parsons, Walter B. Lewis, Ruby B. McZier and George M. White to adopt).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia the Planned Unit Development is effective on \_\_\_\_\_\_.

NOTE: This Order is amended by Z.C. Order No. 412.